

Appl. No. 10/065,274
Response Dated 09-01-04**REMARKS**

Claims 1-19 are pending in the application. Claims 16, 18 and 19 have been amended. The Office Action placed a restriction and/or election requirement on claims 1-19, indicating that apparatus claims 1-15 are drawn to a distinct invention from that of method/inventory claims 16-19. Withdrawal of the restriction requirement and examination of all claims on the merits are respectfully requested.

No New Matter

Claims 16 and 19 have been amended to include each feature of the invention as claimed in claim 6. Support for these changes is found *inter alia* in original claim 6, and further support is found in the specification at paragraphs [0011], [0043], [0047], and [0072].

Provisional Election

Applicant provisionally elects claims 1-15 for examination, with traverse.

Applicant respectfully requests reconsideration of the restriction requirement in view of the amended claims. The amended claims contain each feature of the apparatus as claimed in claim 6, thus the claims are not directed to independent and distinct inventions, and do not require an additional search. The claims are related as an apparatus (claims 1-15) and a distributing process using/inventory of the apparatus of claim 6 (claims 16-19).

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The office action asserts that the inventions are distinct under MPEP 806.05 if it can be shown that the process as claimed can be practiced by another materially different apparatus. The examiner asserts in this case that the product as claimed can be used in "a materially different process, such as door-to-door direct sales with no ordering or shipping required."

Applicant notes that the burden is on the examiner to provide reasonable examples that recite material differences, and that if applicant proves or provides convincing argument that there is no material difference, the proof is again on the examiner to document another materially different process or apparatus or withdraw the requirement. MPEP 806.05(e). It is noted that claim 19 is an inventory comprising the invention of claim 6, the features of claim 6 all being affirmatively recited in claim 19, as amended. As such, claim 19 at least is not shown to be distinct or to impose any additional burden on the examiner.

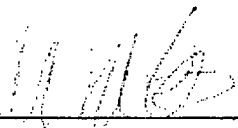
Applicant reserves the right to petition to have the process claims rejoined. Rejoinder of method claims with allowed, originally examined claims is appropriate, as MPEP §821.04 states that "if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined." See *In re Kase*, 71 USPQ2d 1063 (Dir. USPTO 2004). In the present case, amended claims 16 and 19 affirmatively recite each of the features of

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apparatus claim 6. All of the features of the apparatus recited in claim 6 are incorporated in base process claim 16 and inventory claim 19, and by dependence thereto of claims 17-18. In this sense, claims 16 and 19 are linking claims, indicating that there is only one invention here to be examined.

If the Examiner has any questions or comments regarding this communication, he is invited to contact the undersigned directly to expedite the resolution of this application. Further examination of the application and reconsideration of the claims as previously presented and the allowance thereof is respectfully requested.

Respectfully submitted,



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